

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
NOVEMBER 21, 1989**

The one thousand five hundred and eighty-eighth meeting of the Milwaukie City Council was called to order at 6:59 PM in the Milwaukie Center with the following Councilmembers present:

Roger Hall,
Mayor
Craig Lomnicki

William Fitzgerald
Michael Richmond

Absent: Chere' Sandusky

Also present:

Dan Bartlett,
City Manager
Phil Grillo,
City Attorney
Sandra Miller,
Assistant to the
City Manager
Dick Bailey,
Public Works Director

Maggie Collins,
Community Development Director
Dave Krogh,
Assistant Planner
Anne Nickel,
Development Coordinator
Pat DuVal,
Executive Secretary

AUDIENCE PARTICIPATION

Al Liane, 4809 SE Monroe, said the City's annexation plans were too ambitious. The City would be obligated to provide more Police and Fire services and to meet infrastructure needs of newly annexed areas.

Mayor Hall said the type of annexation, commercial, industrial, or residential, determines the cost to the City in providing urban services.

Jim Backenstos, 3626 SE Harrison, President of the Concerned Citizens, agreed that annexation would require new sewer and water lines and additional Police and Fire services. He spoke regarding the release of radioactive contamination by Precision Castparts and election law violations which occurred during the urban renewal election.

Backenstos questioned the need for the recently adopted 58% water rate increase. **Bartlett** reminded Backenstos that Public Works Director Bailey had made a presentation addressing this issue at two previous Council meetings. He said the City was also scheduling an informational public meeting to address citizen concerns with the rate increase.

Backenstos asked about who had taken the salvage from the Dogwood Lodge demolition. **Miller** said the contractor had been responsible for the removal of the material.

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Backenstos said the Concerned Citizens had opposed the riverfront referendum because no representatives of that group had been on the planning committees. **Councilmember Lomnicki** said that several residents and representatives of interest groups who had publicly opposed the riverfront had been asked to serve on the second advisory committee.

Councilmember Lomnicki presented **Mayor Hall** an award of merit from the League of Oregon Cities and the City-County Insurance Services Trust for low injury frequency. He had received this on the part of the City of Milwaukie at the annual League of Oregon Cities.

OTHER BUSINESS

Consideration of Findings for Great American Development Zone Change

Mayor Hall explained that the Council would reconsider the application by Great American Development Company to rezone 10.67 acres of property from R-10 to R-7. The property is the site for the proposed Pennywood Subdivision. The Council has before it proposed findings for the rezone and a proposed ordinance rezoning the property. The reconsideration will consist of deliberation amongst the Council and no public testimony will be allowed. The criteria applicable to the reconsideration are found in Section 9.03 of the Zoning Ordinance and certain applicable goals, objectives and policies relating to the housing and residential land use elements contained within the Community Conservation and Development Division of the Comprehensive Plan. These criteria are addressed in the proposed findings.

Staff Comments: **Dave Krogh**, Assistant Planner, summarized the action to date. The City Council had directed the Community Development staff and the City Attorney to develop findings to support the rezone request.

Councilmember Lomnicki was concerned that Exhibit 2, page 2 of the proposed ordinance stated that the average overall size of the lot was 8,009 square feet.

Steve Schell, Attorney for the Applicant, said based on a 45-lot subdivision, the square footage should be 8,543 per lot.

Close Hearing: **Mayor Hall** announced that the reconsideration of Great American Development Company's application for a rezone of the proposed Pennywood Subdivision Property from R-10 to R-7 was closed.

It was moved by **Councilmember Richmond** and seconded by **Councilmember Fitzgerald** to read the ordinance rezoning certain property from R-10 to R-7 with amendments regarding overall square footage of lots for the first time by title only. Motion passed 3 - 1 with the following vote: **Mayor Hall**, **Councilmember Fitzgerald**, and **Councilmember Richmond** aye; **Councilmember Lomnicki** nay; no abstentions; **Councilmember Sandusky** absent. The ordinance was read for the first time by title only.

The second reading of the ordinance will be heard at the December 5, 1989, meeting.

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PUBLIC HEARING

Consideration of Appeal of Great American Development Subdivision.

Mayor Hall opened the public hearing on the appeal of the preliminary plat approval for Pennywood Subdivision at 7:26 PM.

Mayor Hall announced the purpose of the hearing was to consider an appeal of the preliminary plat approval for Pennywood Subdivision proposed by Great American Development Co. The appeal was filed by James H. Downs, a neighbor to the proposed subdivision. The applicant has the burden of proving that the proposed use is consistent with the City's zoning ordinance and comprehensive plan.

The applicable substantive criteria to apply to this proposed use are found in Section 3, preliminary plat submission; Section 6, design standards; and Section 10, energy, of the Subdivision Ordinance. All the testimony and evidence must be directed toward the applicable substantive criteria just described. Failure to address a criterion precludes appeal based on that criterion. Any interested party may appeal the decision of the Council.

Conflicts of Interest: None.

Jurisdictional Issues: Steve Schell, Attorney for the Applicant, requested that because the rezone ordinance could not be adopted, that the hearing be set over for two weeks to consider the appeal of the preliminary plat approval.

It was agreed to set the public hearing regarding the appeal of preliminary plat approval over until the December 5, 1989, meeting.

OTHER BUSINESS

McLoughlin Corridor Overlay Zone - Ordinance, second reading.

Dave Krogh, Assistant Planner, presented the staff report in which City Council was requested to reconsider the McLoughlin Corridor Overlay Zone to eliminate perceived conflicts. These conflicts specifically regarded residential uses on the east side of McLoughlin. Krogh said the modifications proposed to /MC would permit outright residential uses east of McLoughlin Blvd. which would be in conflict with underlying primary zone requirements. Residential uses in the downtown area would conflict with the Comprehensive Plan.

City Attorney Grillo said the item could be returned to the deliberation stage, and Council could move for the second reading with proposed amendments.

Councilmember Lomnicki said he agreed with staff recommendations. He stated that ground-level residential on the west side of McLoughlin should be specifically prohibited. Mayor Hall said he agreed with this.

It was moved by Councilmember Lomnicki and seconded by Councilmember Richmond to reconsider the motion regarding the first reading of the proposed McLoughlin Corridor Overlay Zone made at the November 7, 1989 meeting. Motion passed 4 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, and Councilmember Richmond aye; no nays; no abstentions; Councilmember Sandusky absent.

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It was moved by Councilmember Lomnicki and seconded by Councilmember Richmond to accept staff recommendations with the addition of section 3.24.4.B(8) regarding residential uses. Motion passed 4 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, and Councilmember Richmond aye; no nays; no abstentions; Councilmember Sandusky absent.

The ordinance was read for the first time by title only.

The second reading of the ordinance will be heard at the December 5, 1989, meeting.

Edison Street Vacation - Ordinance, second reading

It was moved by Councilmember Richmond and seconded by Councilmember Fitzgerald to read the ordinance vacating a portion of S.E. Edison St. for the second time by title only. Motion passed 3 - 1 with the following vote: Mayor Hall, Councilmember Fitzgerald, and Councilmember Richmond aye; Councilmember Lomnicki nay; no abstentions; Councilmember Sandusky absent. The ordinance was read for the second time by title only.

It was moved by Councilmember Richmond and seconded by Councilmember Fitzgerald to adopt the ordinance vacating a portion of S.E. Edison St. Motion passed 3 - 1 with the following vote: Mayor Hall, Councilmember Fitzgerald, and Councilmember Richmond aye; Councilmember Lomnicki nay; no abstentions; Councilmember Sandusky absent.

ORDINANCE NUMBER 1670:

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON,
VACATING A PORTION OF S.E. EDISON STREET.**

Acceptance of Engineer's Report on Stanley LID - Resolution

Dick Bailey, Public Works Director, presented the staff report in which City Council was requested to accept the Final Engineering Reports for the Stanley Avenue Area and the Johnson Creek Blvd. Sanitary Sewer Local Improvement Districts and to direct staff to set a public hearing over the final assessment rolls.

Councilmember Lomnicki asked if the suit filed by the contractor had been settled. Bailey said the suit would enter arbitration.

It was moved by Councilmember Lomnicki and seconded by Councilmember Richmond to adopt the resolution accepting the final engineer's report for sanitary sewer improvements in the Stanley Avenue area local improvement district. Motion passed 4 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, and Councilmember Richmond aye; no nays; no abstentions; Councilmember Sandusky absent.

RESOLUTION NUMBER 35-1989:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MILWAUKIE, OREGON, ACCEPTING THE FINAL ENGINEER'S
REPORT FOR SANITARY SEWER IMPROVEMENTS IN THE
STANLEY AVENUE AREA LOCAL IMPROVEMENT DISTRICT.**

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It was moved by Councilmember Lomnicki and seconded by Councilmember Richmond to adopt the resolution accepting the final engineer's report for sanitary sewer improvements in the Johnson Creek Blvd. local improvement district. Motion passed 4 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, and Councilmember Richmond aye; no nays; no abstentions; Councilmember Sandusky absent.

RESOLUTION NUMBER 36-1989:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACCEPTING THE FINAL ENGINEER'S REPORT FOR SANITARY SEWER IMPROVEMENTS IN THE JOHNSON CREEK BLVD. LOCAL IMPROVEMENT DISTRICT

National Cities Fight Back Against Drugs Week - Resolution

Dan Bartlett, City Manager, presented the staff report in which City Council was requested to adopt a resolution endorsing the National League of Cities concept of combining the efforts of city, county, state and federal governments to fight drugs.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Richmond to adopt the resolution initiating participation in the National League of Cities Fight Back Against Drugs Week. Motion passed 4 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, and Councilmember Richmond aye; no nays; no abstentions; Councilmember Sandusky absent.

RESOLUTION NUMBER 37-1989:

A RESOLUTION OF THE CITY OF MILWAUKIE, OREGON, INITIATING PARTICIPATION IN THE NATIONAL CITIES FIGHT BACK AGAINST DRUGS WEEK, DECEMBER 3 THROUGH 9, 1989.

Bartlett announced that the community policing effort was focusing some of its attention on possible drug houses and drug activities in Milwaukie.

Consideration of Lease Agreement with Albertsons

Dan Bartlett, City Manager, presented the staff report in which City Council was requested to authorize his signing a lease agreement with Albertsons. Albertsons leases the facility, but all parties agree to the subleasing. The building was considered to be the most appropriate for housing the Police Department. The final lease form had not been received from the Albertsons main office. Unless the City Attorney considered there to be substantial changes, Bartlett requested approval for signing.

Councilmember Fitzgerald said he understood that the roof of the building was not adequate. Bartlett said the roof was past its useful life, but could be repaired.

Bartlett summarized the lease agreement. He said the Police Department had been housed in an substandard, temporary facility for some time. The temporary action had resulted in a savings of \$400,000 to fund a new facility. The location was considered to be the most desirable and cost favorable option. Rob Barrentine,

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Barrentine, Bates, Lee, had been contracted to assist the City in evaluating its facilities planning needs. It was the architect's opinion that the facility was adequate for the department's needs.

Mayor Hall added that the current facility offered no privacy for interviewing suspects and witnesses and no adequate storage space for confiscated property. The access to the property is limited because the driveway and parking lot is owned by an adjacent apartment building.

Backenstos asked if the building had been inspected for structural faults. **Bartlett** said the architectural firm had found the building suitable for Police Department needs. **Bartlett** said among the remodeling needs were roof repair, heating and ventilation system replacement, and demolition of interior walls. He said the building was generally considered suitable for the use intended.

Backenstos said a local engineer, whom he identified as Milt Palm, had evaluated the building also. This engineer reported there was support failure on east and south walls; there was an underground water problem; and the roof needed extensive repair. **Backenstos** urged the entire process be in a public hearing format.

It was moved by Councilmember Richmond and seconded by Councilmember Lomnicki to authorize the City Manager to sign the lease agreement with Albertsons and the sublease agreement with the Christmas tree vendor. Councilmember Fitzgerald said he was not in favor of leasing the Albertsons building. Motion passed 3 - 1 with the following vote: Mayor Hall, Councilmember Lomnicki, and Councilmember Richmond aye; Councilmember Fitzgerald nay; no abstentions; Councilmember Sandusky absent.

Great American Development Fee Credit - Resolution

Grillo advised City Council this item was dependent upon the two previous Great American Development considerations and should be held over to the December 5, 1989, meeting.

Councilmember Lomnicki requested a Council Work Session on the regional light rail issue. **Bartlett** said a meeting with ODOT representatives to discuss the Sunrise Corridor had been scheduled for the December 19, 1989, meeting. He suggested a discussion on light rail could be scheduled also.

Bartlett introduced Maggie Collins, the new Community Development Director. He reviewed her previous experience in Oregon and Arizona. Councilmember Fitzgerald asked for a summary of the interview of candidates. **Bartlett** reviewed that procedure of the assessment center, interview, and background check.

CONSENT AGENDA

It was moved by Councilmember Fitzgerald and seconded by Councilmember Lomnicki to adopt the Consent Agenda which consisted of the City Council minutes of November 7, 1989. Motion passed 4 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, and Councilmember Richmond aye; no nays; no abstentions; Councilmember Sandusky absent.

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Bartlett pointed out the summary of Cunningham and Associates billing and quarterly reports.

ADJOURNMENT

The meeting was adjourned at 8:13 PM.

Pat Dullal

